

REMARKS/ARGUMENTS

Claims 1-61 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cottard* (U.S. Application 2001/0023515) in view of *Riedel* (United States Patent 6,156,296). The Office action (page 3) states that "there is a clear suggestion and sufficient motivation to one having ordinary skill in the art to incorporate the claimed species [of] galactaric acid [("mucic acid")] as taught by *Riedel* in the hair dyeing composition of *Cottard* to arrive at the claimed invention with reasonable expectation of success." Applicants respectfully traverse this rejection.

Applicants submit that the collective teachings of the cited prior art would not have motivated one of ordinary skill in the art to produce the claimed invention with a reasonable expectation of success. In support of this position, Applicants enclose a Declaration from co-inventor Jean-Marie Millequant which demonstrates that the claimed hair dye compositions achieve unexpected results as compared to hair dye compositions containing EDTA, as taught in *Cottard* and *Riedel*.

Cottard teaches a composition for oxidative dyeing of keratin fibers comprising an oxidation dye, a thickening polymer, and a fatty alcohol. *Cottard* also teaches that "sequesterizers such as EDTA" can be combined with hair dyeing compositions. *Cottard*, paragraph 337. *Cottard* does not, however, teach the use of an α -hydroxycarboxylic acid as a sequestering agent, let alone the compounds defined in Formula (I).

Riedel teaches a hair cosmetic active composition comprised of one or more phytosterols and one or more α -hydroxycarboxylic acids or α -ketocarboxylic acids. Mucic acid is disclosed in col. 5, line 48 as one specific α -hydroxycarboxylic acid, and EDTA is disclosed in col. 9, lines

13-16 as another α -hydroxy acid. Hair dyeing compositions are but one of many types of products described at Col. 10, ll. 32 - 34.

As disclosed in paragraph [0011] on pages 3 - 4 of the present specification, Applicants have found that the use of "sequestering agents in hair dye compositions [as defined by formula (I)] makes it possible to improve the rise of the dye in the hair and/or to reduce the coloration difference (reduce the selectivity) between differently sensitized hair or portions of hair".

In further substantiation of this statement, Applicants hereby submit the Declaration of Jean-Marie Millequant, a named co-inventor. The Declaration describes experiments comparing an inventive composition containing mucic acid with a comparative dyeing composition identical to the inventive composition except that it contained EDTA in lieu of mucic acid. Each dyeing composition was combined with an oxidizing composition, and were then applied to locks of hair. The selectivity value for each dyeing composition was determined. The value of selectivity is an industry recognized measurement of the homogeneity of the color along the fibers from the roots to the end of the hair, with natural hair being representative of the roots of customer hair and with permed hair being representative of the ends of customer hair. A lower selectivity value corresponds to a higher uniformity of color along the hair.

As explained in the Declaration, it was found that the selectivity value of the hair treated with the inventive dyeing composition was much lower than the EDTA-containing comparative dyeing composition. Consistent with this measurement, it was observed that the color obtained after dyeing with the claimed composition was more uniform (or less selective of any particular strands of hair) as compared with the EDTA-containing

comparative dyeing composition. In the opinion of the Declarant, this result would not have been expected--notwithstanding the known properties of mucic acid as a sequestering or complexing agent.

There is no teaching or suggestion in *Riedel* that substitution of mucic acid for EDTA in *Cottard's* hair dyeing composition would have resulted in *increased or higher color uniformity*.

Therefore, Applicants submit that the claimed invention would not have been obvious over the collective teachings of the cited references. Accordingly, favorable reconsideration and withdrawal of the obviousness rejection are respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: February 28, 2007

Respectfully submitted,

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